

shooter that nearly killed STEVE SCALISE and a volunteer coach. The shooter nearly pulled off a massacre—I was there—because he fervently believed the false and inflammatory rhetoric spewed by BERNIE and other Democrats, such as: “The Republican healthcare plan for the uninsured is that you die.”

As this avowed BERNIE supporter shot STEVE SCALISE, nearly killing him, and shot one of our coaches and two or three of our staff, he screamed: “This is for healthcare!”

Ask me or anyone if that is incitement.

No Democrat will ask whether CORY BOOKER incited violence when he called for his supporters to get “up in the face of Congress people”—a very visual and specific incitement.

No Democrat will ask whether MAXINE WATERS incited violence when she literally told her supporters: “If you see a member of the Trump [administration] at a restaurant, [at] a department store, [at] a gas station, or any place, you create a crowd and you push back on them.” Is that not incitement?

My wife and I were pushed and surrounded and screamed at by this same type of mob that MAXINE likes to inspire. It is terrifying to have a swarm of people threatening to kill you, cursing at you, and literally holding you hostage until police come to your rescue. That night we were assaulted by the crowd, I wasn’t sure if we would survive even with the police protection. But no Democrat has ever considered impeaching MAXINE for her violent rhetoric. In fact, Republicans, to our credit, have never once thought it legitimate to censure or impeach these Democrats.

No Republican has sought to use a government to hold these Democrats responsible for Antifa and Black Lives Matter violence that has consumed our cities all summer, resulting in over \$1 billion of destruction, looting, and property damage. Not one Republican said, “Oh, let’s impeach the Democrats who are inciting this” because it would be ridiculous.

Many on the Democrat side of the aisle cheered them on. KAMALA HARRIS famously offered to pay the bill for those who were arrested. I wonder if she will be brought up on charges of inciting violence for that now that she is Vice President. Should KAMALA HARRIS be impeached for offering to pay for violent people to get out of jail who have been burning our cities down? No. No Republican has offered that because we are not going down the road the Democrats have decided, this low road of impeaching people for political speech.

Should Republicans impeach the Democratic mayor of Seattle who incited and condoned violence by calling the armed takeover of part of her city “a summer of love”? Did any Republicans try to impeach her?

Then on June 8, the New York Post, citing U.S. Justice Department statis-

tics, reported that more than 700 law enforcement officers were injured during the Antifa-Black Lives Matter riots. There were at least 19 murders, including 77-year-old retired police officer David Dorn. Yet Democrats insist on applying a test of incitement to a Republican that they refuse to apply to themselves.

I want the Democrats to raise their hands if they have ever given a speech that says “Take back; fight for your country.” Who hasn’t used the word “fight” figuratively? And are we going to put every politician in jail? Are we going to impeach every politician who has used the word “fight” figuratively in a speech?

Shame. Shame on these angry, unhinged partisans who are putting forth this sham impeachment, deranged by their hatred of the former President. Shame on those who seek blame and revenge and who choose to pervert a constitutional process while doing so.

I want this body on record, every last person here: Is this how you think politics should be?

Look, we have now got crazy partisans on the other side of the aisle trying to censor and remove two of the Republican Senators for their political position. Look, I disagreed. I don’t think Congress should overturn the electoral college. But impeaching or censoring or expelling a Member of Congress you disagree with—is the truth so narrow that only you know the truth? We now have the media on your side saying there is only one set of facts, one set of truths, and you can only interpret it this way.

Now we have seven Senators on the other side trying to expel, censor, or impugn two Senators on this side. I defend them, not because I defend their position—I disagreed with their position—but you can’t impeach, censor, or expel people you disagree with. What is this coming to?

In a few minutes, I will insist on a vote to affirm that this proceeding we are about to enter is unconstitutional, that impeachment of a private citizen is illegal and essentially a bill of attainder, and that no sense of fairness or due process would allow the judge in the proceeding to be a partisan Democrat already in favor of the impeachment.

A sham this is. A travesty. A dark blot on the history of our country. I urge my colleagues to reconsider this kangaroo court and move forward to debate the great issues of our day.

With that, I would like to relinquish the last moment or two of my time to the Senator of Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. JOHNSON. Mr. President, I would like to first thank my colleague from Kentucky for his consistent, over the years—consistent fighting, I use that word—fighting for the Constitution. I truly appreciate it, and I appreciate his raising this constitutional point of order in an hour or so.

The issue he raises is one of constitutionality versus unconstitutionality. I have been reading positions on both sides. I understand there are legitimate arguments on both sides of that question. But the fact is, 3 weeks ago, we came together in this body and we collectively decided that it was not wise, it was not smart—regardless of the constitutionality or the ability for us to do so, it was not smart for Congress to overrule, overturn the wishes of voters and of States that certified the electors. We felt that was not wise.

Again, in a couple of hours, we are going to be voting on—we won’t be able to debate, which is why I am rising today or at this moment—we are going to debate whether a trial of someone who is no longer a President, no longer a civil servant, a private citizen, whether that is constitutional or not constitutional. Again, there are good arguments on both sides. Senators will vote differently and have justification for whatever side of that argument they take.

What I would like my colleagues to consider when they decide how to vote on that is not the constitutionality or unconstitutionality of that; I want them to consider, is it wise? Will a trial of a former President, of a private citizen—will it heal? Will it unify? I think the answer is clearly it will not. A trial of a former President is simply vindictive. It will divide. It is like opening up a wound and throwing salt in it. That is not a healing process.

Again, the question when we vote on this in a couple of hours, for every Senator, should be, Is it wise? Is it the right thing to do? I think from that standpoint, the choice is very clear: It will not heal. It will not unite.

Let’s put an end to this now. Let’s dismiss this trial and rule it unconstitutional.

I yield the floor.

## RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:51 p.m., recessed until 2:15 p.m. and reassembled when called to order by the President pro tempore.

## QUORUM CALL

The PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. REED. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 2 Leg.]

Baldwin	Booker	Capito
Barrasso	Boozman	Cardin
Bennet	Braun	Carper
Blackburn	Brown	Casey
Blumenthal	Burr	Cassidy
Blunt	Cantwell	Collins

Coons	Kennedy	Rubio
Cornyn	King	Sanders
Cortez Masto	Klobuchar	Sasse
Cotton	Lankford	Schatz
Cramer	Leahy	Schumer
Crapo	Lee	Scott (FL)
Cruz	Lujan	Scott (SC)
Daines	Lummis	Shaheen
Duckworth	Manchin	Shelby
Durbin	Markey	Sinema
Ernst	Marshall	Smith
Feinstein	McConnell	Stabenow
Fischer	Menendez	Sullivan
Gillibrand	Merkley	Tester
Graham	Moran	Thune
Grassley	Murkowski	Tillis
Hagerty	Murphy	Toomey
Hassan	Murray	Tuberville
Hawley	Ossoff	Van Hollen
Heinrich	Padilla	Warner
Hickenlooper	Paul	Warnock
Hirono	Peters	Warren
Hoeven	Portman	Whitehouse
Hyde-Smith	Reed	Wicker
Inhofe	Risch	Wyden
Johnson	Romney	Young
Kaine	Rosen	
Kelly	Rounds	

### TRIAL OF DONALD JOHN TRUMP, PRESIDENT OF THE UNITED STATES

The PRESIDENT pro tempore. A quorum is present.

Under the previous order, the hour of 2:30 p.m. having arrived and a quorum having been established, the Senate will proceed to consideration of the Article of Impeachment against Donald John Trump, the former President of the United States.

The majority leader.

Mr. SCHUMER. Mr. President, at this time, pursuant to rule IV of the Senate Rules on Impeachment and the U.S. Constitution, the President pro tempore emeritus, the Senator from Iowa, will now administer the oath to the President pro tempore, PATRICK J. LEAHY.

Mr. GRASSLEY. Please raise your right hand. Your hand is on the Bible.

Do you solemnly swear that in all things appertaining to the trial of the impeachment of Donald John Trump, former President of the United States, now pending, that you will do impartial justice according to the Constitution and the laws, so help you God?

The PRESIDENT pro tempore. I do, so help me God.

At this time I will administer the oath to all Senators in the Chamber in conformance with article I, section 3, clause 6 of the Constitution and the Senate impeachment rules.

Will all Senators now rise and raise their right hands.

Do you solemnly swear that in all things appertaining to the trial of the impeachment of Donald John Trump, former President of the United States, now pending, you will do impartial justice according to the Constitution and laws, so help you God?

SENATORS. I do.

The PRESIDENT pro tempore. The clerk will call the names in groups of four. The Senators will present themselves at the desk to sign the Oath Book.

The legislative clerk called the roll, and the Senators present answered "I do" and signed the Official Oath Book.

The PRESIDENT pro tempore. The Acting Sergeant at Arms will make the proclamation.

The Acting Sergeant at Arms, Jennifer Hemingway, made the proclamation as follows:

Hear ye! Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment, while the House of Representatives is exhibiting to the Senate of the United States the Article of Impeachment against Donald John Trump, former President of the United States.

The PRESIDENT pro tempore. The Senator from Kentucky.

Mr. PAUL. Mr. President, article II, section 4 of the Constitution says: "The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors."

Article I, section 3, clause 6 states: "When the President of the United States is tried, the Chief Justice shall preside."

As of noon last Wednesday, Donald Trump holds none of the positions listed in the Constitution. He is a private citizen. The Presiding Officer is not the Chief Justice, nor does he claim to be. His presence in the Chief Justice's absence demonstrates that this is not a trial of the President but of a private citizen.

#### POINT OF ORDER

Therefore, I make a point of order that this proceeding, which would try a private citizen and not a President, a Vice President, or civil officer, violates the Constitution and is not in order.

The PRESIDENT pro tempore. Under the precedents of the Senate regarding constitutional points of order, including those of the Senate while sitting as a Court of Impeachment, the Chair submits the question to the Senate: Is the point of order well taken?

The majority leader.

Mr. SCHUMER. Mr. President, the theory that the impeachment of a former official is unconstitutional is flat-out wrong by every frame of analysis: constitutional text, historical practice, precedent, and basic common sense. It has been completely debunked by constitutional scholars from all across the political spectrum.

Now, the junior Senator from Kentucky read one clause from the Constitution about the Senate's impeachment powers. He left out another from article I, section 3: "Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States."

If the Framers intended impeachment to merely be a vehicle to remove sitting officials from their office, they would not have included that additional provision: disqualification from future office. The Constitution also gives the Senate the "sole power" to try all impeachments.

So what did past Senates decide on this question? In 1876, President Grant's Secretary of War, William Belknap, literally raced to the White House to tender his resignation before the House was set to vote on his impeachment. Not only did the House move forward with the impeachment, but the Senate convened a trial and voted as a Chamber that Mr. Belknap could be tried "for acts done as Secretary of War, notwithstanding his resignation of said office."

The language is crystal clear, without any ambiguity. The history and precedent is clear. The Senate has the power to try former officials, and the reasons for that are basic common sense. It makes no sense whatsoever that a President or any official could commit a heinous crime against our country and then defeat Congress's impeachment powers and avoid disqualification by simply resigning or by waiting to commit that offense until their last few weeks in office.

The theory that the Senate can't try former officials would amount to a constitutional get-out-of-jail-free card for any President who commits an impeachable offense.

Ironically, the Senator from Kentucky's motion would do an injury to the Constitution by rendering the disqualification clause effectively moot. So, again, by constitutional text, precedent, and common basic sense, it is clearly and certainly constitutional to hold a trial for a former official. Former President Trump committed, in the view of many, including myself, the gravest offense ever committed by a President of the United States.

The Senate will conduct a trial of the former President, and Senators will render judgment on his conduct.

#### MOTION TO TABLE

Therefore, the point of order is ill-founded and, in any case, premature. If Senators want this issue debated, it can and will be argued during the trial. Therefore, I move to table the point of order, and I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 55, nays 45, as follows:

#### [Rollcall Vote No. 8]

##### YEAS—55

Baldwin	Heinrich	Padilla
Bennet	Hickenlooper	Peters
Blumenthal	Hirono	Reed
Booker	Kaine	Romney
Brown	Kelly	Rosen
Cantwell	King	Sanders
Cardin	Klobuchar	Sasse
Carper	Leahy	Schatz
Casey	Lujan	Schumer
Collins	Manchin	Shaheen
Coons	Markey	Sinema
Cortez Masto	Menendez	Smith
Duckworth	Merkley	Stabenow
Durbin	Murkowski	Tester
Feinstein	Murphy	Toomey
Gillibrand	Murray	
Hassan	Ossoff	